down broadly that what would otherwise be a nuisance could be justified by showing that it was done in a "convenient place," was overruled in *Bamford* v. *Turnley* (3 B. & S. 62); but the language of the court in the latter case is worthy of attention as indicating the exact scope of the decision. Bramwell, B., for example, who concurred in overruling *Hole* v. *Barlow*, said that "those acts necessary for the common and ordinary use and occupation of land and houses may be done, if conveniently done, without subjecting those who do them to an action," though the same acts would be nuisances if done wantonly or maliciously. And the leading case of *St. Helen's Smelting Co.* v. *Tipping* (11 H. L. C. 642) shows that the principle on which *Hole* v. *Barlow* was decided cannot be wholly ignored, that the court cannot escape considering the nature and reasonableness of the act complained of. According to the charge of Mellor, J., of which the House of Lords expressed particular approval, "everything must be looked at from a reasonable point of view," and the jury must take into account "all the circumstances, including those of time and locality." In view of such expressions as these, and of Vice-Chancellor Knight Bruce's well-known observation in *Walter* v. *Selfe* (4 De G. & Sm. 315, 322), that the test is not to be found in "elegant and dainty modes and habits of living," but in the "plain and sober and simple notions among English people," one is not very seriously impressed with the damage suffered by the plaintiff on such facts as appear in *Reinhardt* v. *Mentasti*.[1] Moreover, as is pointed out in 6 Law Quarterly Review, 114, it is not altogether easy to reconcile the decision with *Robinson* v. *Kilvert* (41 Ch. Div. 88), where a similar radiation of heat from the defendant's boilers, not great in itself, but causing serious damage to delicate processes of manufacture carried on by the plaintiff, was held by the Court of Appeal not to be a nuisance.

THE LAW SCHOOL.

LECTURE NOTES.

[These notes were taken by students from lectures delivered as part of the regular course of instruction in the School. They represent, therefore, no carefully formulated statements of doctrine, but only such informal expressions of opinion as are usually put forward in the class-room. For the form of these notes the lecturers are not responsible.]

MENS REA IN CRIMINAL CASES. — (*From Mr. Chaplin's Lectures.*) — One often finds the rule laid down that the *mens rea*, or criminal intent, must always be proved in order to maintain a criminal prosecution. This, however, is far from true, or at most can only be stated as a general principle subject, like most general principles, to limitations.

I. It is not always and invariably essential at common law that one should have a criminal, or even a wrongful, intent. In cases, for example, of religious belief, it has been held unnecessary to prove the *mens rea* (as where a father, believing it sinful to seek medical aid in time of sickness, rather than to have faith in prayer, was charged with the death of his infant son).[2] In the case of *Rex* v. *Ogden*,[3] where the prisoner was indicted for unlawfully transposing from one gold ring

[1] Compare the remarks of Dodderidge, J., in *Jones* v. *Powell*, Palmer, 536: "Si home est cy tender nosed que ne poit indurer Seacole it doit lesser son mease."

[2] *Reg.* v. *Downes*, 13 Cox, C. C. 111.

[3] 6 C. & P. 631.

to another the mark of the Goldsmiths' Company, it was found that there was absolutely no intent on his part to defraud; yet he was convicted. In such cases, the intent, so far from being criminal, is good; but the courts go upon grounds of public policy. The same principle is expressed in a case in the United States Supreme Court,[1] and has been discussed and followed in a number of cases in Massachusetts.[2]

II. In general, however, a wrongful, though not necessarily a criminal, intent is essential. This must be interpreted in a very conventional manner, as fixed by the constructions of the courts. But there are qualifications of this principle, viz.: —

(1.) It is not necessary that the intent should be to do the act specified. For example, where a woman, in attempting to commit suicide, shot the man who was interfering to save her, she was held guilty of manslaughter.[3]

(2.) Where there is an intent to do a wrongful act, and the results are more serious than was contemplated, but are in the natural line of what was done, the wrong-doer is deemed to have intended the complete act which was done. For example, if A strikes B, and as a result of the blow B dies, A is guilty of manslaughter.[4]

(3.) When one's accomplice in a proposed wrong goes further in the perpetration of it than was contemplated, one is deemed to have intended all that his accomplice actually does. For example, A and B go out with the purpose of robbing C; A kills C by mistake; then B is liable, though he took no part in the killing, and had not the remotest idea that A would accomplish it.[5]

RECENT CASES.

[These cases are selected from the current English and American decisions not yet regularly reported, for the purpose of giving the latest and most progressive work of the courts. No pains are spared in selecting *all* the cases, comparatively few in number, which disclose the general progress and tendencies of the law. When such cases are particularly suggestive, comments and references are added, if practicable.]

AGENCY — FRAUD — REMEDIES OF PRINCIPAL.— The commissions which an agent corruptly receives in return for dealing with a particular firm, cannot be followed by the principal into the agent's investments. The relation between the defendant and the plaintiffs is that of debtor and creditor, not trustee and *cestui que trust*. *Lister & Co.* v. *Stubbs*, 45 Ch. Div. 1 (Eng.).

AGENCY — FRAUD — REMEDIES OF PRINCIPAL.— Where an agent, in return for a bribe, induces his principal to pay for an article more than its market price, the principal has two distinct and cumulative remedies. He can recover such bribes from the agent as money had and received to his use, and may also, without deducting the above amounts, recover from the agent and the briber, jointly or severally, damages for any loss he may have sustained by such purchase in excess of market rates. *Mayor, etc., of Salford* v. *Lever*, 25 Q. B. D. 363 (Eng.).

BILLS AND NOTES — QUALIFIED ACCEPTANCE. — Acceptance of a bill of exchange "in favor of" the payee "only," does not render the bill non-negotiable. It is not a qualified, but a general, acceptance. *Decroix & Co.* v. *Meyer & Co.*, 25 Q. B. Div. 343 (Eng.).

CONTRACTS — ACTION BY BENEFICIARY. — B., for a consideration, contracted to support A.'s wife, and save A. and his estate free from all claims by her, and gave

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[1] *U. S.* v. *Reynolds*, 98 U. S. 145.
[2] For example, *Com.* v. *Mash*, 7 Met. 472.
[3] *Com.* v. *Mink*, 123 Mass. 422.
[4] *Reg.* v. *Bradshaw*, 14 Cox, C. C. 83.
[5] *Reg.* v. *Jackson*, 7 Cox, C. C. 357.